

17364 U.S. PTO
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NEW UTILITY PATENT APPLICATION TRANSMITTAL <i>(only for new nonprovisional applications under 37 CFR 1.53(b))</i>	Attorney Docket Number	23340-08598
	First Named Inventor	Shaoher X. Pan
	Title	Fabrication of a Reflective Spatial Light Modulator
	Express Mail Label No.	EV 334259662 US

APPLICATION ELEMENTS	ACCOMPANYING APPLICATION PARTS
1. <input checked="" type="checkbox"/> Fee Transmittal Form (in duplicate)	7. <input checked="" type="checkbox"/> Assignment Papers (cover sheet & document(s))
2. <input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27	8. <input type="checkbox"/> Certified Copy of Priority Document(s) <i>(if foreign priority is claimed)</i>
3. <input checked="" type="checkbox"/> Specification Total Pages <input type="text" value="36"/> <i>(preferred arrangement set forth below)</i> <ul style="list-style-type: none"><input checked="" type="checkbox"/> Descriptive Title of the Invention<input checked="" type="checkbox"/> Cross Reference(s) to Related Case(s)<input checked="" type="checkbox"/> Statement Regarding Fed sponsored R & D<input checked="" type="checkbox"/> Background of the Invention<input checked="" type="checkbox"/> Brief Summary of the Invention<input checked="" type="checkbox"/> Brief Description of the Drawing(s)<input checked="" type="checkbox"/> Detailed Description<input checked="" type="checkbox"/> Claim or Claims<input checked="" type="checkbox"/> Abstract of the Disclosure	9. <input type="checkbox"/> Power of Attorney or Authorization of Agent
4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) Total Sheets <input type="text" value="17"/>	10. <input type="checkbox"/> 37 CFR 3.73(b) Statement
5. Oath or Declaration	11. <input type="checkbox"/> Preliminary Amendment
a. <input checked="" type="checkbox"/> New Declaration Total Pages <input type="text" value="5"/> <input checked="" type="checkbox"/> Executed (original or copy)	12. <input type="checkbox"/> Information Disclosure Statement & PTO/SB/08A <input type="checkbox"/> Copies of IDS Citation(s)
b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) <i>(for continuation/divisional with Box 18 completed)</i>	13. <input type="checkbox"/> Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent
i. <input type="checkbox"/> DELETION OF INVENTOR(S) Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).	14. <input checked="" type="checkbox"/> Return Postcard
6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76	15. <input checked="" type="checkbox"/> Petition by Person Having Propriety Interest to File Application on Behalf of Inventor(s) Who Refuse to Sign or Cannot be Found (37 CFR \$1.47(b))
	16. <input checked="" type="checkbox"/> Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor (37 CFR \$1.47)
	17. <input checked="" type="checkbox"/> Statement Establishing Proprietary Interest by Person Signing on Behalf of Nonsigning Inventor
	ADDRESS TO: Mail Stop Patent Application Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

18. If a **CONTINUING APPLICATION**, check appropriate box and supply the requisite information below and in a preliminary amendment or in an Application Data Sheet under 37 CFR 1.76:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No: 10/378,041

Prior application information: Examiner: Allan W. Olsen Group/Art Unit: 1763

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuing or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☒ Customer Number

00758

Name (Print/Type)	Jennifer R. Johnson	Registration No. (Attorney/Agent)	50,784
Signature		Date	January 13, 2004

22581 U.S. PTO
10/756923

011304

FEE TRANSMITTAL for FY 2004

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT \$ 555.00

Complete if Known

Application Number	Unassigned
Filing Date	Herewith
First Named Inventor	Shaoher X. Pan
Examiner Name	Unknown
Art Unit	Unknown
Attorney Docket No.	23340-08598

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None
☐ Deposit Account:

Deposit Account Number **19-2555**

Deposit Account Name **Fenwick & West LLP**

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge all required fee(s) or any underpayment of fee(s) due under 37 CFR §1.16 or §1.17 during the pendency of this application

☐ Charge fee(s) indicated below, except for the filing fee

to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	385.00
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) \$ 385.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
20	-20** = 0	X	
3	-3** = 0	X	
Multiple Dependent			

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	**Reissue independent claims over original patent	
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) \$

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

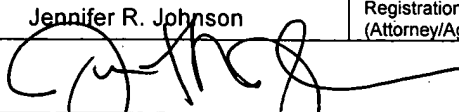
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130.00
1807	50	1807	50	Processing fee under 37 CFR 1.17(g)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	40.00
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

SUBTOTAL (3) \$ 170.00

*Reduced by Basic Filing Fee Paid

SUBMITTED BY

Name (Print/Type)	Jennifer R. Johnson	Registration No. (Attorney/Agent)	50,784	Complete (if applicable)	Telephone: (650) 335-7213
Signature		Date	January 13, 2004		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

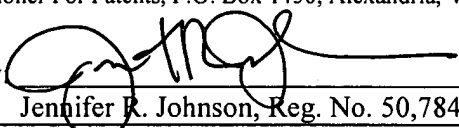
APPLICANTS: Shaoher X. Pan, Xiao Yang and Dongmin Chen
APPLICATION NO.: Unassigned
FILING DATE: Herewith
TITLE: Fabrication of a Reflective Spatial Light Modulator
EXAMINER: Unknown
GROUP ART UNIT: Unknown
ATTY. DKT. NO.: 23340-08598

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Patent Application, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

Dated: 1/13, 2004

By


Jennifer R. Johnson, Reg. No. 50,784

MAIL STOP PATENT APPLICATION
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

**PETITION BY PERSON HAVING PROPRIETARY INTEREST TO FILE
APPLICATION ON BEHALF OF INVENTOR(S) WHO REFUSE TO SIGN OR
CANNOT BE FOUND (37 C.F.R. § 1.47(b))**

1. The party having a proprietary interest in the above identified application, signs below and hereby petitions to make this application on behalf of the non-signing inventor, Shaoher X. Pan, who refuses to join in the application.

2. This petition is accompanied by: (i) a showing of sufficient proprietary interest, (ii) proof of the pertinent facts, and (iii) the last known address of the non-signing inventor as set forth in the accompanying STATEMENT OF FACTS

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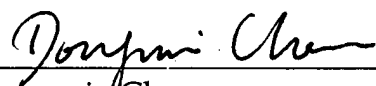
130.00 OP

IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R.
§ 1.47).

3. The fee set forth in § 1.17(h) (\$130.00), required by 37 C.F.R. § 1.47(a), is
attached as a check in the amount of \$130.00.

4. The person making this statement is a person authorized to sign on
behalf of the owner on the basis of an Employee Invention Assignment and
Confidentiality Agreement, a copy of which is attached.

Dated: 119, 2004

By: 
Dongmin Chen
VP of Engineering and CFO
Miradia, Inc.
2880 Lakeside Drive, Suite 260
Santa Clara, CA 95054

23340/08598/DOCS/1403354.1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Shaoher X. Pan, Xiao Yang, and Dongmin Chen
APPLICATION NO.: Unassigned
FILING DATE: Herewith
TITLE: Fabrication of a Reflective Spatial Light Modulator
EXAMINER: Unknown
GROUP ART UNIT: Unknown
ATTY. DKT. NO.: 23340-08598

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Patent Application, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

Dated: 1/13, 2004

By: 

Jennifer E. Johnson, Reg. No. 50,784

MAIL STOP PATENT APPLICATION
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

**STATEMENT OF FACTS IN SUPPORT OF FILING
ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)**

Dear Sir:

This Statement of Facts is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of a declaration by the nonsigning inventor, Shaoher X. Pan (hereinafter "Dr. Pan"), for the above-identified patent application before deposit thereof in the U.S. Patent and Trademark Office.

This Statement of Facts is being made by an available person having first-hand knowledge of the facts recited therein.

I, Greg T. Sueoka, am a partner of Fenwick & West LLP, have a business address at 801 California Street, Mountain View, California, 94041, and hereby declare that:

1. I am a patent attorney licensed to practice before the U.S. Patent and Trademark Office (Reg. No. 33,800).
2. I am an attorney of record in the prosecution of the above-referenced patent application for Miradia, Inc., (hereinafter "Miradia"), a Delaware corporation, having a place of business at 2880 Lakeside Drive, Suite 260, Santa Clara, CA 95054. Miradia is entitled to all rights, title, and interest in involving the above-referenced patent application.
3. On December 10, 2003, the articles of incorporation of XHP Microsystems, Inc. (hereinafter "XHP") were amended to change the name of the corporation to "Miradia, Inc." This name change was approved by a shareholder vote. A copy of the amendment is included herewith and identified as EXHIBIT A.
4. At the request of my client, Miradia, Inc., herewith I am filing a utility patent application entitled "Fabrication of a Reflective Spatial Light Modulator," attorney docket number 23340-08598 (hereinafter "the Application"), which is a continuation of and claims the priority benefit of U.S. Patent Application Serial No. 10/378,041 of "Fabrication of a Reflective Spatial Light Modulator," filed February 27, 2003, which patent application claims priority from provisional U.S. Patent Application Serial No. 60/390,389, for "Reflective Spatial Light Modulator," filed June 19, 2002.

11. It is my belief that Dr. Pan is represented by legal counsel, specifically Frederick D. Baron (hereinafter "Mr. Baron") of Cooley Godward LLP, having an address of Five Palo Alto Square, 3000 El Camino Real, Palo Alto, California, 94306.

12. On November 12, 2003, Ms. Lee sent a package (hereinafter "the Package") via Federal Express to Shaoher X. Pan, 1133 Kelez Drive, San Jose, California, 95120. The Package contained copies of the Application, a declaration for the applicant, an assignment for the applicant, an oath and assignment for a corresponding Taiwanese application, and a cover letter asking Dr. Pan to sign and return the documents, and another pre-paid and pre-addressed return Federal Express envelope. The cover letter accompanying the Package requested return of the signed documents by November 19, 2003 and indicated that if we did not receive the documents in response from Dr. Pan by November 19, 2003, that we would consider him unable or unwilling to sign the enclosed documents and would proceed accordingly. The Package was delivered on November 13, 2003. Copies of the cover letter accompanying the Package and a Federal Express Track Shipment Detail document showing that the Package was delivered are attached as EXHIBIT C. Dr. Pan did not return any executed documents or the originals unsigned.

13. On November 19, 2003, Ms. Lee received an e-mail from Dr. Pan indicating that he believed himself to be the sole inventor of the information in the above-referenced application. A copy of that e-mail is attached as EXHIBIT D.

14. On November 25, 2003, Darryl Woo, a partner of Fenwick & West, received a letter from Mr. Baron (hereinafter "Baron Letter") in reference to Dr. Pan, at

5. The Application names four inventors: Shaoher X. Pan (hereinafter "Dr. Pan"), Xiao Yang, Dongmin Chen, and Shoucheng Zhang.

6. Michelle Lee (hereinafter "Ms. Lee"), a patent attorney and partner of Fenwick & West at the time, had discussions with Xiao Yang, an employee of Miradia and co-inventor of the subject matter of the Application. During those discussions, Xiao Yang revealed inventorship of the subject matter of the Application with corrective intent. From those discussions, it is my belief that Dr. Pan is a joint inventor of the subject matter claimed in the above-referenced patent Application. Additionally, it is my belief that Xiao Yang, Dongmin Chen, and Shoucheng Zhang are also joint inventors of the subject matter claimed in the above-referenced patent applications, and all have executed corresponding declarations.

7. It is my belief that Dr. Pan was employed at XHP when he co-invented the subject matter claimed in the above-referenced patent application, and was obligated to assign the claimed subject matter of the above-referenced patent application to XHP.

8. On November 21, 2002, the first day of Dr. Pan's employment with XHP, Dr. Pan executed an Employee Invention Assignment and Confidentiality Agreement with XHP Microsystems, Inc. According to this agreement, Dr. Pan is obligated to assign all inventions during his employment to XHP Microsystems, Inc. A copy of this agreement is included herewith and identified as EXHIBIT B.

9. As of August 22, 2003, Dr. Pan's employment with XHP terminated.

10. It is my belief that Dr. Pan's last known address is 1133 Kelez Drive, San Jose, California, 95120, and last known telephone number is (408) 268-0702.

which time I became aware of representation of Dr. Pan by Mr. Baron. In the Baron Letter, Mr. Baron referenced the aforementioned letter from Ms. Lee and returned the Package Ms. Lee had sent Dr. Pan dated November 12, 2003, with the Application, declaration for the applicant, assignment for the applicant, and oath and assignment for a corresponding Taiwanese application documents unsigned. A copy of the Baron Letter is attached as EXHIBIT E.

15. On December 18, 2003, I sent a letter to Mr. Baron (hereinafter "Sueoka Letter"). The Sueoka Letter referenced the return of the Package documents unsigned and stated that our assumption from that purposeful act and the Baron Letter was that Dr. Pan was refusing to sign them. A copy of the Sueoka Letter is attached as EXHIBIT F.

16. As of January 9, 2004, we have not received any communication from Mr. Baron on behalf of Dr. Pan in response to the Sueoka Letter. To my knowledge, Dr. Pan has not executed a declaration corresponding to the claimed subject matter for the Application submitted herewith and refuses to sign any such declaration.

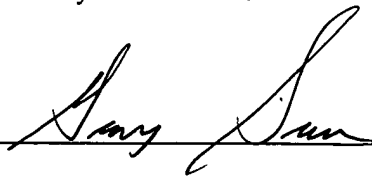
I hereby declare that all statements made herein to the best of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Dated:

Jan 13, 2004

By:



Greg T. Sueoka, Reg. No.: 33,800
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel.: (650) 335-7194
Fax.: (650) 938-5200

23340/08598/DOCS/1404242.1